



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,438	12/08/2003	Martin Schnabel	CM2713Q	2354

27752 7590 10/22/2007  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.  
WINTON HILL BUSINESS CENTER - BOX 412  
6250 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER
----------

MARCETICH, ADAM M

ART UNIT	PAPER NUMBER
----------	--------------

3761

MAIL DATE	DELIVERY MODE
-----------	---------------

10/22/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/730,438

Applicant(s)

SCHNABEL ET AL.

Examiner

Adam Marcetich

Art Unit

3761

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 05 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection. <sup>6</sup>
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-9.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER



Continuation of 3. NOTE: The limitation of dispersing a pigment throughout a polymeric material is a new limitation that has not been presented before. As such, it raises new issues that change the scope of the claims and would require additional consideration and/or search. Therefore the amendments are not being entered.

#### Response to Arguments

1. Applicant's arguments filed 05 October 2007 have been fully considered but they are not persuasive.
2. Applicant asserts that claims are not to be read in a vacuum. Examiner notes that neither are limitations which do not appear in the claims to be imported from the specification.
3. Applicant asserts that a particular part of Noda relied upon to teach an a-value as recited in claim 1 is not pointed out. Examiner notes that Noda discloses an a-value of 0 (column 7, lines 49-51). The background a-value of a material is also capable to serve as a printed value, when pigments having an a-value near zero are used.
4. Applicant asserts that Tao in view of Rogers fails to teach a polymeric material colored by one or more pigments dispersed throughout said polymeric material, since they are merely printed on the surface. Examiner notes that the language "dispersed throughout" fails to differentiate the claimed invention from the prior art. A pigment is substantially distributed through a material when formed into an absorbent article.
5. Applicant asserts that Tao teaches away from the claimed invention by disclosing an L-value of 93.46. Examiner notes that Rogers is being relied on for the teaching of an L-value within the claimed range.
6. Applicant requests clarification of the rejection of claims 5 and 6 over Tao in view of Rogers. Examiner notes that both claims 5 and 6 are being rejected over the limitation of a graphic not covering more than about 60% of a back sheet. This range substantially overlaps the claimed ranges of not more than 50% and more than about 60%.
7. Applicant asserts that rejections of claims 6 or 7 do not appear in the prior Office Action. Examiner notes that claims 6 and 7 are rejected over Tao in view of Rogers on p. 3 of the Office Action dated 09 August 2007.  
Regarding claim 7, Tao et al. (WO 99/32164) discloses a disposable article comprising:  
a rear waist edge (Fig. 4, near graphics 22) and  
an absorbent core comprising a rear core end edge (Fig. 4, absorbent layer 66 having edge near graphics 22).  
Tao discloses the invention as substantially claimed. See Office Action dated 09 August 2007. However, Tao is silent regarding a value of 40 mm between said rear end edge and said rear core end edge. Since the combination of references provides for all structural elements as claimed, it will be within the skill of those skilled in the art to adjust the distance based on the desired degree of absorbent protection offered by absorbent layer 66 within the absorbent article. See in re Bosch and Slaney.
8. Applicants' further arguments are partially based on the non-entered amendment, therefore they are not being considered.